

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Administration of the North American)	CC Docket No. 99-200
Numbering Plan)	
)	
WilTel Communications, LLC Petition for)	
Limited Waiver of Section 52.15(g)(2)(i) of)	
the Commission's Rules Regarding Access)	
to Numbering Resources)	

PETITION FOR LIMITED WAIVER

WilTel Communications, LLC ("WilTel") respectfully requests that the Commission grant WilTel a limited waiver of section 52.15(g)(2)(i) of the Commission's numbering rules to allow WilTel to obtain numbering resources directly from the North American Numbering Plan Administrator ("NANPA") and/or the Pooling Administrator ("PA"), as the Commission granted to SBC Internet Services, Inc. ("SBCIS"). WilTel intends to use these numbering resources in deploying IP-enabled services, including Voice over Internet Protocol ("VoIP") services, on a commercial basis to its customers.

I. Introduction

On January 28, 2005, the Commission granted SBCIS a limited waiver of section 52.15(g)(2)(i) of the rules of the Federal Communications Commission (the "Commission") until the Commission adopts final rules regarding IP-enabled services.¹ Subject to conditions set forth in the *SBCIS Order*, the Commission allowed SBCIS to obtain numbering resources directly

¹ *In the Matter of Administration of the North American Numbering Plan*, Order, CC Docket 99-200 (rel. Feb. 1, 2005) (the "*SBCIS Order*"). The Commission held that it would grant the same relief to other entities that seek similar relief, to an extent comparable to that granted to SBCIS in the *SBCIS Order*.

from the NANPA and/or the PA for use in deploying VoIP and other IP-enabled services on a commercial basis.² In the *SBCIS Order*, the Commission said that it would grant similar authority to entities seeking similar relief.³

Like SBCIS, WilTel respectfully requests that the Commission grant WilTel a limited waiver of section 52.15(g)(2)(i) of the Commission's numbering rules to allow WilTel to obtain numbering resources directly from the NANPA and/or the PA. WilTel is similarly situated with SBCIS, seeks the same relief and is willing and able to meet all of the conditions imposed on SBCIS in the *SBCIS Order*.

For the reasons set forth below, WilTel is entitled to a limited waiver of section 52.15(g)(2)(i) because such a waiver will facilitate WilTel's ability to achieve a more cost-effective and efficient means of interconnection between IP networks and the Public Switched Telephone Network ("PSTN"), thereby helping to achieve the Commission's goals of fostering innovation and speeding delivery of advanced services, such as VoIP, to consumers. WilTel seeks a waiver only until the Commission adopts final numbering rules regarding IP-enabled services thereby limiting the waiver in duration. Further, WilTel will comply with certain conditions to ensure that the NANP numbering resources are used efficiently and not wasted.

II. Background

A. Direct Access to Numbering Resources is Less Costly and More Efficient

In order for customers of retail VoIP service providers utilizing a broadband IP network to exchange calls with parties served by a carrier operating a time division multiplexed ("TDM") network within the PSTN, the VoIP service provider must be able to assign an NANP telephone number to its customers. WilTel is a nationwide, facilities-based provider of voice, data and IP

² See *Id.*

³ See *Id.* at ¶ 4.

services, including VoIP services. Historically, WilTel has provided voice services only on a long distance, wholesale basis and therefore did not provide its customers (or the end users) with numbers. The end user's LEC generally provided numbers to the end user. In order to provide retail VoIP services on a local and long distance basis, however, WilTel must be able to assign an NANP telephone number to its customers. Additionally, as a wholesale VoIP service provider, WilTel's customers likely will rely upon WilTel to be able to provide them, as part of its VoIP service offering, the numbering resources necessary for them to be able to provide services to their end users. As such, WilTel will provide its wholesale VoIP customers with blocks of telephone numbers, without which their end users would be unable to connect with parties being served by a carrier utilizing a traditional network on the PSTN.

Typically, as a VoIP service provider, WilTel would be required to purchase a retail product from a local exchange carrier in order to obtain NANP telephone numbers for its customers. While WilTel may be able to obtain numbering resources in this manner, in many cases this results in a less efficient or cost-effective means of providing the service to its customers. For instance, WilTel may wish to connect using its own facilities or an Internet connection with an end user customer and provide that customer with a suite of services, including the ability to make VoIP calls to locations within the same calling area. In that case, WilTel would want to be able to provide its customers with numbers in order to facilitate a full end-to-end service. Additionally, other factors can work to limit the ability of a VoIP service provider to maximize its service offerings, such as the availability, or lack thereof, of products at specific locations for access to end offices required to reach their end user base.

The result for WilTel is that there is the potential for unnecessary duplication of facilities and associated costs in terminating its customers' traffic simply because WilTel has the ability to

bypass such facilities but was forced to purchase a product through a local exchange carrier in order to obtain the numbering resources. Such duplication of facilities and associated costs, together with the added time it takes to establish such interconnection as well as the reduction in the efficiency of the network, is unnecessary. WilTel has the ability to interconnect with the PSTN through use of trunk-side interconnection at a particular central office location. By doing so, WilTel can bypass the potential impediments to full deployment of its service offerings to customers.

B. WilTel Cannot Directly Obtain Numbering Resources Under Current Rules

Currently, WilTel is unable to obtain numbering resources directly from NANPA and/or the PA due to the restriction in section 52.15(g)(2)(i), which mandates that an applicant for numbering resources be “authorized to provide service in the area for which the numbering resources are being requested.”⁴ Section 52.15(g)(2)(i) requires that applicants for numbering resources be state-certificated to provide services in the area for which they desire the numbers. The Commission has held that this rule requires a carrier applying for numbering resources to demonstrate, by way of a state commission order or state certificate to operate as a carrier, that it is “licensed and/or certified to provide service in the area in which [it] seek[s] numbering resource[s].”⁵ In other words, the carrier must demonstrate that it is a state-certified local exchange carrier. Under the current rules, therefore, only carriers certified by the state to provide local exchange services may obtain numbering resources directly from NANPA and/or the PA.

WilTel, as a result, is unable to obtain such numbering resources directly because it is not a state-certificated local exchange carrier. WilTel is an information service provider, which does not require state certification, and an interstate interexchange carrier, which only requires state-

⁴ 47 C.F.R. § 52.15(g)(2)(i).

⁵ *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7613, ¶ 97 (2000).

certification to provide resold or interexchange telecommunications services.⁶ The Commission has made clear that IP-enabled services should exist in an environment “largely free of government regulation” and that the great majority of such services “should remain unregulated.”⁷ Therefore, to require WilTel to subject itself to further state regulation by mandating that it be a local exchange carrier simply for the purpose of obtaining numbering resources for its VoIP services would contravene this Commission’s pronouncement to the contrary. WilTel hereby requests a waiver of section 52.15(g)(2)(i) so that WilTel may obtain numbering resources without being required to obtain such state certification. WilTel intends to use these numbering resources in deploying IP-enabled services, including VoIP services, on a commercial basis.

III. Discussion

A. Waiver of Section 52.15(g)(2)(i) of the Commission’s Rules

Under section 1.3 of the rules of the Commission (the “Rule(s)”), the Commission may waive its Rules when “good cause” is demonstrated.⁸ In determining whether good cause has been demonstrated, the Commission may exercise its discretion to waive a Rule where the particular facts make strict compliance inconsistent with the public interest.⁹ In doing so, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.¹⁰ Waiver of the Commission’s Rules is appropriate if special circumstances warrant a deviation from the general rule, and such a

⁶ WilTel’s subsidiary, WilTel Local Network, LLC (“WLN”), is certificated in a number of states to provide local services, but some of those certifications don’t include local exchange voice services. Moreover, WLN has neither the facilities nor the contractual arrangements necessary to provide circuit-switched local services.

⁷ *IP-Enabled Services*, WC Docket No. 04-36, Notice of Proposed Rulemaking, FCC 04-28, ¶ 35 (2004) (the “*IP-Enabled Services NPRM*”).

⁸ 47 C.F.R. §1.3.

⁹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁰ *See Id.* at 1166; *see also WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

deviation will serve the public interest.¹¹

1. *Special Circumstances Warrant Deviation from Section 52.15(g)(2)(i)*

As this Commission is aware, a key public interest goal of the Commission is that of “fostering innovation and speeding the delivery of advanced services to consumers.”¹² As the Commission has proclaimed, changes brought by the rise of IP-enabled communications promise to be “revolutionary.”¹³ Providers of VoIP and other IP-enabled services are at the forefront of the communications industry in developing and implementing new and innovative communications services that facilitate communication between traditional networks on the PSTN and IP networks. WilTel, for example, is implementing technology within its network that allows voice traffic to run over IP equipment. This technology allows VoIP traffic to be routed more efficiently throughout the network, and permits companies to develop and implement new services and features based upon this technology. These are important factors that will drive investment in IP technology as it continues to improve, technology that is necessary to facilitate communication between IP networks and the PSTN and advance the goal of speeding broadband access for consumers and increasing their choices of available services.¹⁴

In order to obtain telephone numbers for its customers, WilTel must obtain them through a local exchange carrier by purchasing retail products from such carriers (such as primary rate interface (PRI) ISDN line). Such retail products may not be the most efficient or cost-effective means for WilTel of interconnecting with the PSTN. For example, WilTel may want to use its own network facilities to provide its retail VoIP customers with access to local and long distance

¹¹ *Id.* at 1159.

¹² *SBCIS Order* at ¶ 6.

¹³ *IP-Enabled Services NPRM*, 19 FCC Rcd at 4867.

¹⁴ *See SBCIS Order* at ¶ 8.

communications. Just as the Commission found in the *SBCIS Order*,¹⁵ such special circumstances support granting WilTel's request for waiver and warrants a deviation from section 52.15(g)(2)(i).

2. *Deviation from Section 52.15(g)(2)(i) will Serve the Public Interest*

Deviation from the general rule in section 52.15(g)(2)(i) by granting WilTel a waiver is in the public interest. As explained above, a waiver allowing WilTel to obtain numbering resources directly from the NANP and/or the PA will facilitate WilTel's ability to more efficiently interconnect to the PSTN and thereby help to achieve the Commission's goals of fostering innovation and speeding delivery of advanced services to consumers. Additionally, such a waiver will work to spur the implementation of IP-enabled services and facilitate increased choices of services for consumers.

Finally, WilTel seeks from the Commission a waiver of section 52.15(g)(2)(i) that is limited in duration. In particular, WilTel recognizes that the Commission is currently attempting to determine generally whether any action is appropriate with regard to the numbering rules as they pertain to IP-enabled services such as VoIP.¹⁶ With that in mind, WilTel seeks a waiver that will continue only until the Commission adopts final numbering rules regarding IP-enabled services in its *IP-Enabled Services NPRM*.¹⁷ In the event the Commission determines that the numbering rules should be retained as they are today and do apply to IP-enabled services, then WilTel will take whatever action is necessary to bring itself into compliance with the Commission's ruling.

B. WilTel will Comply with the Waiver Conditions in the *SBCIS Order*

Granting WilTel a waiver of the Commission's rule in section 52.15(g)(2)(i) will further

¹⁵ *SBCIS Order*, at ¶ 4.

¹⁶ *See IP-Enabled Services NPRM*, 19 FCC Rcd at ¶ 76.

¹⁷ *See SBCIS Order*, at ¶ 11.

the Commission's numbering administration goal of ensuring that the NANP numbering resources are used efficiently because WilTel intends to abide by the same conditions as imposed by the Commission in the *SBCIS Order*.¹⁸ In particular, WilTel will comply with numbering utilization and optimization requirements and industry guidelines and practices, including numbering authority delegated to state commissions.

Finally, WilTel will submit requests for numbering resources to the Commission and the relevant state commission at least thirty days prior to requesting resources from the NANPA and/or the PA. In light of meeting the above requirements, there is no basis for concern that granting the waiver to WilTel will detract from the Commission's numbering resource optimization efforts.

C. WilTel Requests that the Commission Grant the Waiver on an Expedited Basis

Because the Commission is considering the manner in which numbering resources should be assigned to providers of VoIP and other IP-enabled services in its *IP-Enabled Services NPRM*, and because the Commission has recognized the benefits to be gained from the rapid deployment of IP-enabled services, WilTel requests that the Commission grant the waiver sought herein on an expedited basis. Additionally, the Commission has already considered this issue in depth and granted the same waiver to SBCIS. Because WilTel has demonstrated herein that it is entitled to a limited waiver of section 51.15(g)(2)(i), the Commission should grant WilTel's waiver request on an expedited basis.

¹⁸ See *Numbering Resource Optimization*, at ¶ 1.

IV. Conclusion

For the reasons set forth herein, WilTel is entitled to a limited waiver of section 52.15(g)(2)(i) until such time as the Commission adopts final numbering rules regarding IP-enabled services, and under the conditions described above. Further, WilTel is entitled to be granted a waiver on an expedited basis.

Respectfully submitted,

WILTEL COMMUNICATIONS, LLC

A handwritten signature in black ink, appearing to read "Adam Kupetsky", written over a horizontal line.

Adam Kupetsky
Director of Regulatory
Regulatory Counsel
WilTel Communications, LLC
One Technology Center TC 15-H
Tulsa, OK 74103
(918) 547-2764

May 9, 2005